

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
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 Masahiro TAKAHASHI)
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Serial No.: 10/773,587)
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Filed: February 6, 2004)
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For: Light Emitting Device Having Transparent)
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 Film Varying Refractive Index And)
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 Manufacturing Method Thereof)
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)
Examiner: Sikha Roy)
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)
Confirmation No.: 6735)
)
)
Art Unit: 2879)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE (C) AFTER FINAL AND
TRANSMITTAL OF ENGLISH TRANSLATION OF PRIORITY DOCUMENT

Sir:

Applicant has the following response to the Final Rejection of September 1, 2006 and the Advisory Action of December 18, 2006, a two month extension of time being submitted herewith. Applicant is submitting herewith a verified English translation of the priority document Japanese patent application serial number 2003-033054 filed February 12, 2003 in Japan.

Applicant will address each of the Examiner's rejections in the order in which they appear in the Final Rejection.

Claim Rejections - 35 USC §102

Claims 1-3, 9-13, 20-22 and 28-32

In the Final Rejection, the Examiner rejects Claims 1-3, 9-13, 20-22 and 28-32 under 35 USC §102(e) as being anticipated by Utsumi et al. (US Publ. 2004/0166362). This rejection is respectfully traversed.

It is respectfully submitted that Utsumi is not prior art to the present application.

More specifically, Utsumi was published on August 26, 2004 based on a U.S. filing date of February 20, 2003.

The present application was filed on February 6, 2004 and claims priority under 35 USC §119 of Japanese patent application serial number 2003-033054 filed February 12, 2003 in Japan. A certified copy of this priority Japanese application was filed February 6, 2004 in the present application. Applicants are submitting herewith a verified English translation of Japanese patent application serial number 2003-033054.

In the Advisory Action, the Examiner stated that Applicant could not rely upon the foreign priority date because a translation of the priority document had not been filed. As Applicant has now filed such a translation, this objection has been overcome, and Applicant is entitled to rely on its §119 priority date of February 12, 2003.

Hence, as the §119 priority filing date of the present application is prior to the U.S. filing date of Utsumi, Utsumi is not prior art to the present application.

Accordingly, it is respectfully requested that this rejection be withdrawn.

Claims 5-8, 15-19, 24-27 and 34-39

The Examiner also rejects Claims 5-8, 15-19, 24-27 and 34-39 under 35 USC §102(e) as being anticipated by Hayashi et al. (US Publ. 2004/0124770). This rejection

is also respectfully traversed.

It is respectfully submitted that Hayashi is not prior art to the present application.

More specifically, Hayashi was published on July 1, 2004 based on a U.S. filing date of October 24, 2003.

As explained above, the present application was filed on February 6, 2004 and claims priority under 35 USC §119 of Japanese patent application serial number 2003-033054 filed February 12, 2003 in Japan. Hence, as the §119 priority filing date of the present application is prior to the U.S. filing date of Hayashi, Hayashi is not prior art to the present application.

Accordingly, it is respectfully requested that this rejection be withdrawn.

Claim Rejections - 35 USC §103

The Examiner also rejects Claims 4, 14, 23 and 33 under 35 USC §103(a) as being unpatentable over Utsumi et al. and further in view of Hayashi et al. This rejection is also respectfully traversed.

As explained above, neither Utsumi nor Hayashi is prior art to the present application. Accordingly, it is respectfully requested that this rejection be withdrawn.

Conclusion

It is respectfully submitted that the present application is in a condition for allowance should be allowed.

Please charge our Deposit Account No. 50-1039 for any fee due for this response, extension of time, or submission of priority document.

Favorable reconsideration is earnestly solicited.

Date: January 30, 2007

Respectfully submitted,

/Mark J. Murphy/

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